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E.O. 12958: DECL: 07/26/2016
TAGS: PTER PGOV PHUM PREL KU TERRORISM
SUBJECT: COURT OF APPEALS UPHOLDS ACQUITTALS OF FIVE GUANTANAMO DETAINEES; FURTHER APPEAL UNLIKELY

REF: A. KUWAIT 2020
¶B. KUWAIT 1831

Classified By: CDA Matt Tueller for reasons 1.4 (b) and (d)

¶1. (C/NF) Kuwait's Court of Appeals upheld the acquittal of five Guantanamo detainees on terror-related charges, including membership in Al-Qaeda. Four of the five were released shortly after their May 21 acquittal in the Court of First Instance while the fifth, Adil Zamil Abdulmohsen Al Zamil remained in prison, serving out a one-year sentence from a April 2000 assault case. (Note: Post was told by an MFA official in May (ref A) that overturning the acquittals would require "more evidence" from the USG. End note.)

¶2. (U) The decision, publicly announced on July 22, was made privately a week to ten days prior. It is not immediately clear if the travel ban is still in effect for the four defendants released in May: Abdulaziz Sayer Owain Al Shimmari, Mohammed Funaitel Sahli Al-Dihani, Saad Maadi Saad Al Azmi, and Abdullah Saleh Ali Al-Ajmi. In addition, prosecutors have not yet stated whether they intend to appeal the acquittals to the Court of Cassation.

¶3. (C/NF) Comment: The court's decision to uphold the acquittals highlights the ongoing challenge that GOK officials and prosecutors tell us they face in gaining convictions in terrorism cases when there is limited evidence that defendants participated directly in terrorist acts. An appeal to the Court of Cassation would likely reaffirm the lower courts' findings, a risk the Attorney General's office apparently does not want to take.

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